

VIRGINIA REAL ESTATE BOARD
REGULATORY COMMITTEE MEETING

March 22, 2006

The Real Estate Board Regulatory Committee held a meeting on Wednesday, March 22, 2006, at the Department of Professional and Occupational Regulation, Richmond, Virginia.

The following Board Members were present for all or part of the meeting:

R. Schaefer Oglesby
Sharon Parker Johnson
Judith Childress
Byrl Taylor

DPOR Staff Members present for the meeting included:

Christine Martine, Executive Director
Tammie Hall, Education Administrator

The meeting was called to order at 11:10 a.m.

The Committee discussed the following regulations and revisions it feels need to be made:

18 VAC 135-20-10 Definitions

"Actively engaged in the brokerage business" means anyone who holds an active real estate license."

18 VAC 135-20-30 Qualifications for licensure

4. The applicant shall not have been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, within five years of the date of the application or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.

8. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration by the board ~~in accordance with § 54.1-204 of the Code of Virginia.~~

18 VAC 135-20-60 Qualifications for licensure by reciprocity

8. The applicant shall not have been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, within five years of the date of the application or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.
9. Applicants for licensure who do not meet the requirements set forth in subdivisions 5 and 8 of this section may be approved for licensure following consideration by the board ~~in accordance with § 54.1-204 of the Code of Virginia.~~

18 VAC 135-20-100. Qualification for renewal; continuing education requirements.

As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or non-resident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of ~~eight~~ sixteen classroom, correspondence, or other distance learning instruction hours during each licensing term except for salespersons who are renewing for the first time and are required to complete thirty hours of post license education regardless of whether his license is active or inactive. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18 VAC 135-20-70, Activation of license).

2. ~~Four~~ Eight of the ~~eight~~ sixteen required hours shall include two hours of training in fair housing laws, and a minimum of one hour each in state real estate laws and regulations, and ethics and standards of conduct, agency and contracts. If the licensee submits a notarized affidavit to the board which certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair

housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining hours shall be on subjects from the following list:

3. Licensees holding licenses in other jurisdictions must complete ~~four~~ eight hours which shall include fair housing laws, state real estate laws and regulations ~~and~~ ethics and standards of conduct, agency and contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection.
6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide course documentation of completion ~~certification~~ as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.

18 VAC 135-20-105. Additional qualifications for renewal of a reciprocal license.

In addition to the requirements set forth in 18 VAC 135-20-100, all licensees, including those licensees who upgrade to broker prior to renewal, who obtained their license by reciprocity in accordance with 18 VAC 135-20-60 must pass a written examination provided by the board or a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.

18 VAC 135-20-160. Place of business.

- C. Every principal broker shall have readily available to the public in the main place of business the firm license, the principal broker license and the license of every salesperson and broker active with the firm. The branch office license and a roster of every salesperson or broker assigned to the branch office shall be ~~available to the public~~ posted in a conspicuous place in each branch office.
- D. Each place of business and each branch office shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office. The supervising broker may designate another broker to assist in administering the provisions of this subsection. The supervising broker does not relinquish overall responsibility for the supervision of the acts of all licensees assigned to the branch office. Factors to be considered in determining whether the supervision is reasonable and adequate include, but are not limited to, the following:
 1. The availability of the supervising broker to all licensees under the supervision of the broker to review and ~~discuss~~ approve all documents including but not limited to leases, contracts affecting

the firm's clients, provisions, brokerage agreements provisions and advertising;

3. The availability of the supervising broker in a timely manner to supervise the management of the brokerage services;
4. The supervising broker ensures the brokerage services are carried out competently and in accordance with the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia;
5. The supervising broker undertakes reasonable steps to ensure compliance by all licensees assigned to the branch office; and
6. If a supervising broker is located more than 50 miles from the branch office and there are licensees who regularly conduct business assigned to the branch office, the supervising broker must certify in writing on a quarterly basis on a form provided by the board that the supervising broker complied with the requirements in this subsection.
7. The supervising broker must maintain the records required in this subsection for three years.

18 VAC 135-20-170. Maintenance of licenses.

A. Name and address.

1. Salespersons and individual brokers shall at all times keep the board informed of their current name and home address. Changes of name and address must be reported to the board in writing within 30 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use. The professional name shall include the licensee's first or last name and shall not include any titles.
3. Principal brokers must at all times keep the board informed of their current firm and branch office name and addresses and changes of name and address must be reported to the board in writing within 30 calendar days of such change. A physical address is required. A post office box will not be accepted.

18 VAC 135-20-180.C Maintenance and management of escrow accounts.

C. Actions including improper maintenance of escrow funds include:

~~5. Failure, as principal broker, to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee has caused noncompliance with subdivision 4 of this subsection.~~

D. Failure, as principal broker, to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee has caused noncompliance with any subdivision of this regulation.

18 VAC 135-20-190. Advertising by licensees. [Add language regarding agency disclosures]

C. Online advertising.

3. All online listings advertised must be kept current and consistent as follows:

a. Online listing information must be consistent with the property description and actual status of the listing. The licensee shall update in a timely manner material changes to the listing status authorized by the seller or property description when the licensee controls the online site.

b. The licensee shall make timely written requests for updates reflecting material changes to the listing status or property descriptions when a third party online listing service controls the Website displaying the listing information.

c. All listing information shall indicate in a readily visible manner the date that the listing information shown was last updated.

18 VAC 135-20-210. Disclosure of interest. [Combine A & B and add This disclosure shall be made to the seller or purchaser upon having a substantive discussion with the seller or purchaser.]

A. If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property through purchase or lease and the licensee is a party to the transaction, the licensee must disclose ~~that information~~ to the owner in writing in the offer to purchase or lease.

Comments: Check to see if reg can be modified to "first contact" instead of waiting for the offer to purchase.

- B. A licensee selling or leasing property in which he has any ownership interest must disclose that he is a real estate licensee and he has an interest in the property to any purchaser or lessee in the written offer to purchase, the application, the offer to lease, or the lease, whichever occurs first.

18 VAC 135-20-300. Misrepresentation/omission.

- 6. Failing to include the complete terms and conditions of the real estate transaction in, including but not limited to any lease, property management agreement or offer to purchase;

18 VAC 135-20-345. Effect of disciplinary action on concurrent licenses.

The board shall suspend, revoke or deny renewal of existing concurrent broker licenses when the board suspends, revokes or denies renewal of another broker's license held by the same individual.

18 VAC 135-20-360. Proprietary school standards, instructor qualifications and course requirements.

- A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in § 54.1-2105 of the Code of Virginia.
- B. Every applicant to the Real Estate Board for approval as an instructor for pre-license education shall have completed a "train the trainer" course, or its equivalent and shall have one of the following qualifications:
 - 1. Baccalaureate degree, a Virginia real estate broker's license, and two years of discipline-free active real estate experience within the past five years;
 - 2. Five years of discipline-free active experience acquired in the real estate field in the past seven years and an active Virginia broker's license; or
 - 3. Expertise in a specific field of real estate who will teach only in the area of their expertise. ~~For example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals.~~ Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise.

C. Every applicant to the Real Estate Board for approval as an instructor for continuing education and post license education, shall have expertise in a specific field of real estate who will teach only in the area of their expertise, with at least five years of active experience. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise.

E. Approval of pre-license, continuing education and post license education courses shall expire on December 31st five years from the year in which the approval was issued, as indicated on the approval document.

E.F. All schools must establish and maintain a record for each student. The record shall include: the student's name and address; the course name and clock hours attended; the course syllabus or outline; the name or names of the instructor, the date of successful completion and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

F.G. All schools must provide each student with a certificate of course completion or other ~~document~~ documentation that the student may use as proof of course completion. ~~The certificate or other document~~ Such documentation shall contain the hours of credit completed.

18 VAC 135-20-370. Fees.

B. The renewal fee for proprietary school certificates expiring ~~biennially on June 30~~ every two years from the last day of the month in which they were issued shall be \$90.

C. If the requirements for renewal of a proprietary school certificate, including receipt of the fee by the board, are not completed within 30 days of the expiration date noted on the certificate, a reinstatement fee of \$135 is required. A certificate may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the certificate may not be reinstated under any circumstances and the applicant must meet all requirements and apply as a new applicant. If the renewal requirements are not completed within thirty days of the expiration date noted on the proprietary school approval, the proprietary school shall no longer offer board approved courses.

D. The application for original pre-license, continuing education and post license education instructor certificate shall be \$190.

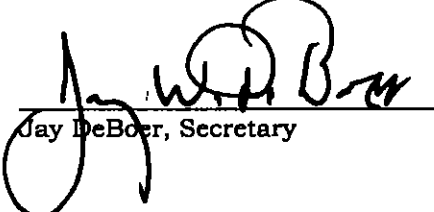
E. The renewal fee for an instructor certificate ~~expiring biennially on June 30~~ every two years from the last day of the month in which it was issued shall be \$75.

18 VAC 135-20-390. Withdrawal of approval.

The board may withdraw approval of any school, course or instructor for the following reasons:

There being no further business nor public comment, the meeting adjourned at 12:30 p.m.


Schaefer Oglesby, Chairman


Jay DeBoer, Secretary